

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE BAIR HUGGER FORCED AIR WARMING
PRODUCTS LIABILITY LITIGATION

MDL No.: 15-md-02666

This Document Relates to:

Carol Hayes,

Civil Action No.: 18-cv-00617

Plaintiffs,

v.

3M Company and Arizant Healthcare, Inc.,

Defendants.

**PLAINTIFF'S RESPONSE IN OPPOSITION TO
DEFENDANTS' THIRTEENTH MOTION TO DISMISS
FOR FAILURE TO COMPLY WITH PRETRIAL ORDER NO. 14**

NOW COMES Plaintiff, Carol Hayes, identified in Defendants' Thirteenth Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 (Doc. 1387), by and through undersigned counsel submits this Response to Defendants' Thirteenth Motion to Dismiss.

1. In November 2016, Plaintiff contacted undersigned counsel's co-counsel, Goza Honnold, L.L.C., regarding an infection and subsequent treatment that she experienced due to the use of a Bair Hugger patient warming device during her total hip arthroplasty.
2. Counsel worked to obtain medical and billing records to move forward with case. Those records indicate that a Bair Hugger device was used during the original hip replacement surgery.

3. On March 2, 2018, Plaintiff Carol Hayes filed a claim against 3M Company and Arizant Healthcare, Inc. in the Bair Hugger Forced Air Warming Products Liability Litigation.
4. In May 2018, Plaintiff suffered a serious stroke and was temporarily relocated to assisted living for rehabilitation.
5. According to Pretrial Order No. 14, Plaintiff was required to serve her Plaintiff Fact Sheet by May 31, 2018. (Doc. 117).
6. Undersigned counsel has made efforts to coordinate the completion of the Plaintiff Fact Sheet by and through family members during this difficult time.
7. On August 2, 2018, Defendants moved for dismissal of Plaintiff's case for failing to provide a completed Plaintiff Fact Sheet, Verification and authorization.
8. On August 7, 2018, undersigned counsel emailed Defendants to request additional time to produce a completed Plaintiff Fact Sheet.
9. On August 8, 2018, Benjamin Hulse on behalf of Defendants provided written agreement to both extend the deadline to complete the Plaintiff Fact Sheet to August 30, 2018 and remove Plaintiff Carol Hayes' case from the motion subject to this Response.
10. On August 8, 2018, undersigned counsel received the remaining information to complete the Plaintiff Fact Sheet.

11. On August 8, 2018, Plaintiff Carol Hayes by and through undersigned counsel served a complete Plaintiff Fact Sheet, Verification and authorization pursuant to Pretrial Order No. 14.

12. Since Plaintiff has served a completed Plaintiff Fact Sheet in conjunction with the stipulation of Defendants, Plaintiff prays that the Defendants' Thirteenth Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 be DENIED.

Dated: August 9, 2018

SCHLICHTER, BOGARD & DENTON, LLP

/s/ Kristine Kraft

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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2018 a copy of the foregoing Plaintiff's Response in Opposition to Defendants' Thirteenth Motion to Dismiss was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participants registered to receive service in this matter.

Dated: August 9, 2018

/s/ Kristine Kraft
Kristine K. Kraft, Esq.